

SECTION 12

CONSTRUCTION SECURITY

10% Security

Prior to the Division of Highways issuing a notice to proceed for the construction of subdivision streets the Developer shall first post with the Division of Highways a security in the amount of 10% of the estimated street construction cost including the intersection with the existing state highway as approved by the Division of Highways.

100% Security

On receipt of written notification of the failure of the Developer to satisfactorily complete subdivision street construction in accordance with the provisions of the 10% security agreement as determined by the Division of Highways the Developer shall have twenty (20) calendar days to provide the Division of Highways with an approved schedule for completion.

Should the Developer fail to provide a satisfactory street construction schedule or fail to comply with the approved completion schedule the Division of Highways may withdraw its approval to construct the affected subdivision streets.

Withdrawal of subdivision street construction approval for failure to complete the streets shall be cause to increase the required construction security from 10% to 100% on future subdivision street construction projects.

Security Agreement

The following forms of security based on the estimated quantities and unit prices approved by the Division of Highways will be acceptable.

- Surety Bond issued by a Bonding Company licensed in Delaware
- Commercial Letter of Credit issued by a lending institution licensed in Delaware
- Escrow Account

The security is to be accompanied with the executed Security Agreement (See Appendix attached to this Section)150% Entrance Security

The Division of Highways at its sole discretion may require the Developer to provide a security in the amount of 150% of the estimated cost of the construction of the intersection with the existing state highway.

(Name of Bank)

(Address)

(Phone Number)

(Date)

Subdivision Engineer
State of Delaware
Department of Transportation
P.O. Box 778
Dover, DE 19903

REF: Irrevocable Commercial Letter of Credit No. ()

(Name of Subdivision)

Sir:

We hereby establish our Irrevocable Commercial Letter of Credit in favor of the State of Delaware, Department of Transportation, Division of Highways, as beneficiary at the request of and for the account of _____(Developer), for an amount _____ or amounts not to exceed _____(Amount).

This letter of credit is subject to the following terms and conditions:

1. Effective Date: _____

2. This credit is to be available by sight draft being presented to _____(Name of Bank) at its main office at _____(Address). All drafts so drawn must bear the clause "Drawn under _____(name of Bank) letter of credit number _____(Enter number of letter or credit) dated _____(enter date)."

3. The sight draft must be signed by the Director of the Division of Highways stating that _____(enter name of developer) has failed to perform construction of the following streets in accordance with the construction agreement covering the construction of those streets and the irrevocable letter of credit in favor of the State of Delaware, Department of Transportation, Division of Highways pertaining thereto. Demand is hereby made in the amount of the enclosed draft".

Street Name From To Length

4.This letter of credit will expire on _____(enter date).
The bank agrees to notify the state 30 days calendar days prior to expiration to permit a request for an extension or to permit the State to draw thereon. Bank agrees that such notice will be sent by registered mail to each of the following:

Subdivision Engineer	And	Finance Administrator
State of Delaware		State of Delaware
Department of Transportation		Department of Transportation
Division of Highways		Division of Highways
P.O. Box 778		P.O. Box 778
Dover, DE 19903-0778		Dover, DE 19903-0778

Bank agrees that such notice will be effective only if it is sent by registered mail. In the event such notice is not given, this Letter of Credit shall automatically renew until such notice is received. It shall then expire sixty (60) calendar days from the receipt of such notice. This Credit will automatically terminate as of the date the State of Delaware, Division of Highways, notifies Bank that it has accepted the subject roadways for maintenance.

5.Except as otherwise stated herein, no modifications or revocations may be made by the undersigned to the irrevocable credit crated hereby, without the express written approval of the Director of the Division of Highways Operations.

6.Drafts drawn in favor of the Division of Highways Operations shall not relieve the Developer to satisfactorily complete construction of the aforesaid streets.

7.All bank charges connected with this Letter of Credit are for the account of _____ (Developer).

8.This Letter of Credit is neither negotiable nor assignable.

Very truly yours,

(Signature)

(Typed Name)

Title

SURETY AGREEMENT

FOR

SUBDIVISION STREET CONSTRUCTION

KNOW ALL MEN BY THESE PRESENTS THAT: _____

Whose address is _____ hereinafter called
"Developer" and _____ as surety legally

authorized to do business in Delaware whose address is _____

hereinafter called "Surety", are held firmly bound unto the State
of _____ Delaware in the sum of _____

_____ Dollars (\$ _____)

(said sum being 10 percent of the total price agreed upon by the
Division of Highways and the Developer for the construction of
the subdivision streets as set forth in this agreement,) to be
paid to the said State of Delaware for the use and benefit of the
Division of Highways of said State, to which payment will and
truly to be made we bind ourselves, our successors and assigns,
firmly by these presents.

SEALED with our seals and dated this _____ day of
_____, 19____.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH that if the
Developer, who is responsible for the construction of the
subdivision streets set forth in this agreement for the property
known as _____
fails to construct such streets in accordance with the provisions
of the fully executed Construction Agreement for Suburban
Community Streets as determined within the sole discretion of the
Director of Highways, the bond shall be forfeited in favor of the
State of Delaware. Bond forfeiture shall not relieve the
DEVELOPER of the responsibility to satisfactorily complete
construction of the aforesaid streets. Bond forfeiture shall
occur within sixty (60) days of receipt of written notification
by the Division of Highways. Should the DEVELOPER complete all
construction in accordance with the aforesaid permit, then this
obligation shall be void and of no effect, or else shall be and
remain in full force and virtue until such roads or streets are
accepted by the State for sole and absolute care, management and
control.

The roads or streets covered by this agreement are:

<u>Name</u>	<u>From</u>	<u>To</u>	<u>Approx. Length</u>

EXECUTED by the parties hereto the day and year first herein written:

For Surety Company: BY _____
(Signature)

Attest _____
(Typed Name)

(Position Title)

For Developer in a Corporation:

Attest _____
Secretary BY _____
(Signature)

(Typed Name)

(Position Title)

For Developer if a firm or individual:

Signed, Sealed and Delivered BY _____
in the presence of: (Signature)

(Typed Name)

(Position Title)

ESCROW AGREEMENT

FOR

SUBDIVISION STREET CONSTRUCTION

KNOW ALL MEN BY THESE PRESENTS THAT: _____

whose address is _____

and whose Employer Federal Identification Number is _____,

hereinafter known as DEVELOPER, having furnished the State of Delaware a certified check in the amount of _____ Dollars (\$_____) (said sum being ten percent of the total price agreed upon the Division of Highways and the DEVELOPER for construction of the subdivision streets as set forth in this agreement) to be deposited in the Department of Transportation Escrow Account, do hereby relinquish said amount to the State of Delaware for the use and benefit of the Division of Highways if the Developer fails to meet the conditions of this obligation.

SEALED with our seals and dated this _____ day of _____, 19____.

NOW THE CONDITION OF THIS OBLIGATION IS SUCH that if the Developer, who is responsible for the construction of the subdivision streets as set forth in this agreement in the development known as _____

fails to construct such streets in accordance with the provisions of the fully executed Construction Agreement for Suburban Community Streets as determined within the sole discretion of the Director of Highways, the funds shall be forfeited in favor of the State of Delaware. Forfeiture shall not relieve the DEVELOPER of the responsibility to satisfactorily complete construction of the aforesaid streets. Forfeiture shall occur within sixty (60) days of receipt of written notification by the Division of Highways. Should the DEVELOPER complete all

construction in accordance with the aforesaid construction agreement, then this obligation shall be void and of no effect, or else shall be and remain in full force and virtue until such roads or streets are accepted by the State for sole and absolute care, management and control.

The roads or streets covered by this agreement are:

<u>Name</u>	<u>From</u>	<u>To</u>	<u>Approx. Length</u>
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EXECUTED by the parties hereto the day and year first herein written:

For Developer if a Corporation:

Attest _____
Secretary

BY _____
(Signature)

(typed Name)

For Developer if a firm or individual:

(Position Title)

Signed, Sealed and Delivered

BY _____
(Signature)

(Typed Name)

(Position Title)